

TITLE 9-000.

LICENSING, CONTROL AND REGULATION OF BUSINESSES

9-100. CONTROL AND REGULATION OF BUSINESSES GENERALLY.

9-110. GENERAL PROVISIONS.

9-111. As used in Title 9-000 of these ordinances, the following terms shall have the meanings specified, unless a different meaning is clearly evident from the context.

A. "Business" means and includes all activities engaged in within the City of Delta carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term "business" unless otherwise specifically provided.

B. "Canvasser" or "solicitor" means any individual whether or not a resident of the City of Delta, traveling either by foot, wagon, motor vehicle or other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales, provided that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, hotel or motel room, lodging house, apartment, shop or any other place within Delta City for the sole purpose of exhibiting samples and taking orders for future delivery.

C. "Coin operated amusement device" as used herein means any amusement machine or device operated by means of the insertion of a coin, token, or similar object for the purpose of amusement or skill and for the playing of which a fee is charged. The term does not include vending machines in which are not incorporated gaming or amusement features, nor does the term include any coin operated mechanical musical device.

D. "Each separate place of business" shall mean each separate establishment or place of operation, whether or not operating under the same name, within the City of Delta, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the City of Delta.

E. "Employer" means the operator, owner or manager of a place of business and any persons employed by such person in the operation of said place of business in any

capacity and also any salesman, agent or independent contractor engaged in the operation of the place of business in any capacity.

F. "Engaging in business" includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering or personal services by an employee to his employer under any contract of personal employment.

G. "Licensed premises" shall mean any room, house, building, structure or other place occupied by any person licensed to sell beer or liquor or to allow the consumption of beer or liquor on the premises under this ordinance.

H. "Peddler" as used in this part shall include any person, whether or not a resident of the City of Delta, traveling by foot, wagon, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, motor vehicle, railroad car, or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this part shall be deemed a peddler subject to the provisions of the part. The word "peddler" shall include the words "hawker" and "huckster."

I. The term "operator" as used herein is hereby defined to be any person, firm, corporation, partnership or association which sets up for operation by another or leases or distributes for the purpose of operation by another, any coin operated amusement device as herein defined, whether such setting up for operation, leasing or distributing before a fixed charge or rental, or on the basis of a division of the income derived from such device, or otherwise.

J. "Place of business" as used in connection with the issuance of a license under this ordinance shall be deemed to include cafes, restaurants, public dining rooms, cafeterias, taverns, cabarets and other places where the general public is invited or admitted and shall be deemed to include private clubs, corporations and associations operating under charter or otherwise wherein only the members and their guests are invited. Occupied hotel and motel rooms that are not open to the public shall not be deemed to be places of business as defined herein. As used in connection with the issuance of license for sale of intoxicants or of licensing premises for consumption of intoxicants and alcoholic beverages shall be deemed to include cafes, restaurants, public dining rooms, cafeterias, taverns, cabarets and other places wherein the general public is invited or admitted and shall be deemed to include private clubs, corporations and associations operating under

charter or otherwise wherein only the members and their guests are invited. Occupied hotel and motel rooms that are not open to the public shall not be deemed to be places of business with reference to licensing and sale or consumption of intoxicants.

K. A "Proprietor" is hereby defined to be any person, firm, corporation, partnership, association or club who, as owner, lessee, or proprietor has under his or its control any establishment, place or premises in which or at which a coin operated amusement device is placed or kept for use or play, or is on exhibition for the purpose of use or play.

L. Applicants for permits and licenses under this part, shall file a sworn application in writing signed by the applicant, if an individual, by all partners, if a partnership, and by the president of a corporation, or by an agent, including a State or regional agent, with the City Recorder which shall give the following information:

1. The name of the applicant, and if the applicant is an employee or agent of a corporation, the name of the corporation.

2. The address of the applicant, and if the applicant is an agent or employee of a corporation, the address of the corporation.

3. A brief description of the nature of the business and the goods to be sold and from whom or where the applicant obtains the goods to be sold.

4. If the applicant is employed by an agent of another person, the name and permanent address of such other person or persons.

5. The length of time for which the applicant desires to engage in business within the City of Delta.

6. The place or places within the City of Delta where the applicant proposes to carry on his or her business.

7. A list of other municipalities in which the applicant has engaged in business within the six (6) month period preceding the date of the application.

8. A photograph of the applicant, taken within six (6) months immediately prior to the date of filing the application, which photograph shall be two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner.

9. A statement as to whether or not the applicant or any of his employers have been convicted of any crime, misdemeanor or the violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

10. If the applicant is employed by another person, firm or corporation, documents showing that the person, firm or corporation for which the applicant proposes to do business is authorized to do business within the State of Utah.

M. The term "wholesale" means a sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.

N. The term "wholesaler" means a person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.

9-112. BUSINESS LICENSE REQUIRED.

It shall be a Class "B" misdemeanor for any person to transact, engage in or carry on any business, trade, profession and calling or to operate a vending, pinball or coin-operated machine without first receiving the class or type of license required by the City of Delta.

9-113. LICENSE ASSESSOR AND COLLECTOR.

The City Recorder is designated and appointed as ex-officio assessor of license fees for Delta City. On receipt of any application for a license, the City Recorder shall assess the amount due thereon and shall collect all license fees based upon the rate established by ordinance. He shall enforce all provisions of this title, and shall cause proceedings to be commenced against all persons violating any of the provisions of this title.

9-114. PAYMENT DATES.

All license fees shall be due and payable as follows, except as may be otherwise provided in the applicable ordinance:

A. Annual fees shall be due on the first day of each calendar year in advance. The annual license shall date from the first day of January of each year and shall expire on December 31 of each year.

B. Annual fees shall be due on the first day of each calendar year and shall become delinquent if not paid by February 1, each year except as otherwise specified.

C. All license fees not paid by February 1 of each calendar year shall be increased by ten percent (10%) of the total license fee payable for that business. License fees not paid by March 1 of each calendar year shall be increased by fifty percent (50%) of the total license fee payable for that business under the schedules set out in this ordinance.

D. In the event that any business required to be licensed under this ordinance fails to apply for and pay the license fee required by this ordinance by March 1 of each calendar year in which said license fee is due, the City Recorder shall send a letter to the owner or operator of such business, making demand on said owner or operator to comply with this ordinance and to make full payment together with any penalties assessed for delinquent payments for renewal of said business license or licenses. The letter shall

require the owner or operator to comply with the business license ordinance within five (5) business days from the date said letter is sent to the owner or operator at his/her address which is on file with the City Recorder as set forth in said owner's or operator's application for a Delta City business license. Such letter may be sent by United States mail, first class, postage prepaid, or by certified mail, return receipt requested, which shall be sufficient to comply with the provisions of this Section D. In the event the owner or operator shall fail to comply with Delta City's request to make full payment for said business license in accordance with the provisions of this section, the City Recorder shall refer the matter to the City Attorney's office for prosecution under this ordinance. The use of the procedure set out in this section shall not preclude use of any other enforcement remedies permitted under this ordinance.

E. One-half of annual fee shall be payable for all licenses issued by the municipality pursuant to applications made after July 1 of each year, and licenses issued after July 1 shall expire on the first day of the following January. Payment shall be due upon the date of application approval.

F. No license shall be issued until all penalties legally assessed for late payment have been paid in full.

9-115. APPLICATIONS FOR LICENSE.

A. All applications for license shall include:

1. The name of the person desiring a license.
2. The kind of license desired, stating the business, calling trade or profession to be performed, practiced or carried on.
3. The class of license desired, if such licenses are divided into classes.
4. The place where such business, calling, trade or profession is to be carried on, giving the street number if the business calling, trade or profession is to be carried on in any building or enclosure having such number.
5. The period of time for which such license is desired to be issued.
6. The zone in which the property is located and the date an occupancy permit, if any, was issued for the structure or structures within which the business will be conducted.
7. Any other information that may be needed for the City Recorder to determine whether a license should be issued.

B. In the event that the license application relates to a coin-operated machine or device, the application shall identify the machine or device to which it applied and the location thereof.

9-116. CERTIFICATE.

All certificates of license shall be signed by the Mayor, attested by the City Recorder, and shall contain the following information:

- A. The name of the person to whom such certificate has been issued.
- B. The amount paid.
- C. The type of license and the class of such license if licenses are divided into classes.
- D. The term of the license with the commencing date and the date of its expiration.
- E. The place where such business, calling, trade or profession is to be conducted.

9-117. DISPLAY.

A. Every certificate of license issued under this title shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the certificate may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall of any part of the room within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person ready to be shown on request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.

B. In the event the license is for a coin-operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued.

9-118. TRANSFER OF BUSINESS LICENSE NOT TRANSFERABLE.

No license granted or issued under any ordinance of Delta City shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than therein named to do business or to authorize any other business, calling, trade or profession than is therein named.

9-119. REVOCATION OR DENIAL OF BUSINESS LICENSE.

A. Any license issued pursuant to the provisions of this code or of any ordinance of the City of Delta may be revoked and any application denied by the City Council because of:

- 1. The failure of the licensee or applicant to comply with the conditions and requirements of this code or any ordinance of the City of Delta.

2. Unlawful activities conducted or permitted on the premises where the business is conducted.

B. Prior to the revocation of a license or denial of an application to renew business license, the licensee or applicant shall be given notice which shall state in substance that the City Council intends to revoke the business license or deny the application to renew, together with the reason or reasons therefore.

C. Any person who has been given notice that Delta City intends to revoke a business license issued to such person or deny an application to renew a business license shall have a right to hearing before a Delta City license hearing board, which shall be organized by the City Council and shall consist of a member of the City Council, a duly qualified elector of Delta City appointed by the Mayor after approval by the City Council and a third person to be selected by the two designated members of the hearing board from among a panel of persons appointed by the Mayor after approval by the City Council to sit on the hearing board. The panel of persons appointed for selection as the third member of the hearing board shall consist of not more than six (6) persons with suitable ability, experience and expertise to render an informed, impartial decision on matters presented to the hearing board. Any person given notice of revocation or denial of application to renew a business license shall have the right to appear before said hearing board at least ten days and not more than 30 days from the date notice is sent and to appear in person at such hearing, with representation by counsel, to hear evidence against him, to cross-examine witnesses and to present evidence as to why the license should not be revoked or application denied. The hearing shall be conducted in accordance with rules adopted by the hearing board, which shall provide for orderly proceedings and for fair and equitable presentation and consideration of evidence so as to assure due process rights to the hearing applicant. The hearing applicant shall have the right to challenge any member of the hearing board on the basis that the member of the hearing board has such interest or is so biased as to render a fair decision. If it is shown, as determined by the hearing board that the member of the hearing board is not qualified to make an impartial decision, that person shall be replaced by an additional person selected from the panel appointed by the City Council to sit on the hearing board.

D. The preceding subsection shall not apply to applications for licenses for businesses which have not previously been licensed by the City of Delta, and such applicants need only be informed that their application has been denied.

9-120. BRANCH ESTABLISHMENTS.

A separate license must be obtained for each separate place of business in the City of Delta and each license shall authorize the licensee to engage only in business licensed thereby at the location or in the manner designated in such license, provided, that

warehouse and distributing places used in connection with or incident to a business licensed under this part shall not be deemed to be separate places of business or branch establishments.

9-121. JOINT BUSINESS LICENSES.

Whenever any person is engaged in two or more businesses within the City of Delta, such person shall not be required to obtain a separate license for each of such businesses located in the same building or group of buildings, but shall be issued one license for each place of business which shall specify on its face each of such businesses. The license tax to be paid for such a license shall be computed at the highest license fee applicable to any of the businesses conducted at that location, to which will be added an additional fixed fee of fifty dollars (\$50.00) for each additional business in which such person may be engaged at the same location. The sale of alcoholic beverages or any other product or service requiring a special license under this ordinance shall not be considered a joint license for the purpose of this ordinance. Where two or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license for such business.

9-122. RECIPROCAL RECOGNITION OF LICENSES FOR DELIVERY OF GOODS.

A. No license shall be required for operation of any vehicle or equipment in the City of Delta when:

1. Such vehicle is merely passing through the City of Delta.
2. Such vehicle is used exclusively in intercity or interstate commerce.

B. No license shall be required by this ordinance of any person whose only business activity in the City of Delta is the mere delivery in the City of Delta of property sold by him at a regular place of business maintained by him outside the City of Delta where:

1. Such person's business is at the time of such delivery licensed by the Utah municipality or county in which such place of business is situated; and,
2. The authority licensing such business grants to licensees of the City of Delta making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this section; and,
3. Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of the City of Delta for compliance with health or sanitary standards prescribed by the City of Delta; and,
4. The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or other symbol issued by the said licensing authority to

evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or terms for which it is effective.

C. The City Recorder shall at the request of any person certify a copy of this section to any municipality or county of the State of Utah to which a copy has not previously been certified.

9-123. EXEMPTIONS TO LICENSE.

. No license fee shall be imposed under this ordinance on any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly non-profit purpose which is tax exempt in such activities under the laws of the United States and the State of Utah, nor shall any license fee be imposed upon any person not maintaining a place of business within the City of Delta who has paid a like or similar license tax or fee to some other taxing unit within the State of Utah and which taxing unit exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in the City of Delta and doing business in such taxing unit.

B. The license assessor and collector may, with approval of the City Council, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper in effecting the exemption provided for in subsection A. of this Section.

C. If any person shall furnish satisfactory evidence that he merits exemption from the license fee or other requirements of this ordinance by reason of hardship, misfortune or physical infirmities, the Mayor or City Council shall remit such portion of the license fee or other requirements as may be appropriate under the circumstances. In the event of conflict between any such determination made by the Mayor and that made by the City Council, the determination of the City Council shall be final.

9-124. FEE NOT TO CONSTITUTE UNDUE BURDEN ON INTERSTATE COMMERCE.

None of the license taxes provided for by this ordinance shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license tax is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the license assessor and collector for an adjustment of the tax so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony show his method of business and the gross volume or estimated gross volume of business and such other information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The license assessor and collector shall then conduct an investigation, comparing applicant's business

with other businesses of like nature and shall make findings of facts from which he shall determine whether the tax fixed by this ordinance is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the City Council a license tax for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the City Council is satisfied that such license tax is the amount that the applicant should pay, it shall fix the license tax in such amount. If the regular license tax has already been paid, the City Council shall order a refund of the amount over and above the tax fixed by the City Council. In fixing the fee to be charged, the license assessor and collector shall have the power to base the fee upon a percentage of gross sales, or employees, or may use any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature.

9-200. ANNUAL LICENSE FEES.

9-201. FEE SCHEDULE ESTABLISHED BY RESOLUTION.

All business license fees and/or fee schedules shall be established by resolution.

9-300. SPECIAL LICENSING PROVISIONS.

9-320. COIN OPERATED AMUSEMENT DEVICES.

9-321. LICENSE REQUIRED.

No person, firm or corporation shall engage in the business of being an operator or proprietor of coin operated amusement devices, as the terms are defined herein, without first obtaining a license as required by this ordinance.

9-322. OPERATOR'S LICENSE FEE.

The license fee for each operator shall be \$50.00 per year for the first device set up for operation, leased or distributed to a proprietor. If more than one device is set up for operation, leased or distributed by the same operator, then such operator shall pay an additional fee of \$25.00 for each additional coin-operated amusement device set up for operation, leased or distributed. All operator licenses shall be payable annually in advance, except such additional fee as may be required for additional devices installed during the calendar year after payment of the annual license fee. In no case shall any portion of said license fee be refunded to any licensee.

9-323. PROPRIETOR'S REGISTRATION FEE.

The registration fee for each proprietor, as the term is defined herein, shall be \$10.00 per year for each business premises on which any coin operated amusement device is used or played, or exhibited for use or play at any time during a calendar year. All proprietor's registration fees shall be payable in advance by the proprietor or on behalf of the proprietor provided, however, that where application is made after July 1 of any

license year, a license may be issued for the remainder of the year upon payment of one-half of the annual registration fee. In no case shall any portion of any said registration fee be repaid to the proprietor, except as may otherwise be required under this ordinance.

9-324. APPLICATION FOR LICENSE.

In addition to other licensing requirements of this ordinance, applications to license coin operated amusement devices shall be filed in writing with the City Recorder, on a form to be provided by the City of Delta, and shall specify:

- A. The name and address of the applicant, and if a firm, corporation, partnership or association, the principal officers thereof and their addresses.
- B. The address of the premises where the licensed device or devices are to be operated, together with the character of the business as carried on at such place.
- C. The trade name and general description of the device or devices to be licensed, the name of the manufacturer and the serial number and, if the applicant is a proprietor, the number of devices to be licensed.
- D. The name and address of the operator of the device or devices, if other than the proprietor, and a telephone number at which the operator can be contacted during regular business hours.
- E. The total number of devices which the operator desires to locate within the City of Delta.

9-325. LICENSE CERTIFICATE – LICENSE NOT TRANSFERABLE.

The license issued for a proprietor of premises on which devices are located shall be posted in a conspicuous place in the establishment of the licensee. A separate license certificate shall be issued for each device and shall be posted in a conspicuous place on or in the immediate vicinity of the licensed device. Such license shall be non-assignable and non-transferable and in the case of a proprietor shall apply only to the premises for which such license is issued.

9-326. EVIDENCE OF OWNERSHIP.

Any person who owns a device or devices at the time this ordinance becomes effective shall file with the City Recorder evidence of such ownership prior to the issuance of a license for each such coin operated amusement device and any person purchasing a device or devices at or placing or keeping an amusement device for use or play, or exhibiting the same for the purpose of use or play, shall file with the City Recorder evidence of ownership thereof before exhibiting or placing said device or devices for use or play.

9-330. PAWN BROKERS.

9-331. DEFINITION.

Any person within the City of Delta who loans money on deposits of personal property or deals in the purchase or possession of personal property on the condition of selling the same back again to the pledger or depositor, or who loans or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property into his possession, is hereby declared to be a pawn broker.

9-332. LICENSE REQUIRED.

It shall be unlawful for any person to conduct or transact a pawn broker business or pawn shop in the City of Delta without first having obtained a license therefore as provided in this ordinance.

9-333. LIMITATION ON LICENSE ISSUED.

No such license shall be issued to any person, corporation, partnership or association other than the real and actual proprietor of the business and place of business for which it is issued.

9-334. APPLICATIONS APPROVED BY CITY COUNCIL.

All applications for pawn broker's licenses or renewals thereof shall be presented to the City Council at a regular or special meeting thereof. No applications shall be acted upon until a recommendation for or against the application is received from the Millard County Sheriff, provided that the City Council shall not be bound by such recommendation.

9-335. LICENSE APPLICATION FEE AND BOND.

In addition to the general licensing provisions set out above, any application for a pawn broker's license shall be accompanied by letters from at least ten (10) residents of the City of Delta of good reputation certifying that the applicant is a person of good reputation and character and stating whether or not they desire that such a business be located within the City of Delta. Any applicant shall also file, with the application, a bond in favor of the City, condition for the faithful observance of all provisions of this ordinance respecting pawn brokers during the continuation of the license and any renewal thereof, for a period not to exceed one year. The bond shall be in the sum of \$10,000.00, with a corporate surety. An applicant for pawn broker license shall further deposit with the application one-half of the total license fee, which shall be considered an application fee and shall not be refundable. The annual license fee for pawn broker license shall be \$300.00.

9-336.

If a person licensed as a pawn broker shall not conduct said business for a period of 90 days, any license granted hereunder shall be canceled and considered null and void. The

licensee shall then be entitled to a refund of the proportionate amount of the license fee for the remainder of the calendar year. Any refund not claimed within 60 days shall be deemed forfeited to the City. Pawn broker's licenses shall not be transferable to any other person and it shall be unlawful for any person to attempt to transfer such a license or to conduct business on a transferred license.

9-337. FORFEITURE OF PAWN.

The pawn broker shall retain in his possession every pledge or a pawn for a period of thirty days after maturity of the loan or thirty days after the last payment of interest or part of the principal. If the pledger fails or neglects for 45 days after the maturity of the loan or 45 days of the last payment of interest or part of the principal to redeem the pawned property the pawn broker may sell any such property held for redemption, provided that such property shall have been held for redemption for a period of not less than 150 days from the date of the pledge. After a loan is in default, the pawn broker may refuse to accept any payment less than the entire principal and interest due.

9-338. PAWN TICKET TO BE FURNISHED.

Each pawn broker shall furnish the pledger a printed receipt clearly showing the amount loaned with a specific, detailed description of the pledged property pawned or received, the date of receipt, the time for redemption and the name of the pledge. The reverse side of said receipt shall be marked such that the amounts of principal and interest and any other charges paid by the person securing the loan can be clearly designated thereon. Each payment shall be entered on the reverse side of said receipt and shall designate how much of the payment is credited to principal and how much to interest and how much to any other charge, with the date of said payment shown thereon. The pawn broker shall affix to each article or thing a tag upon which shall be inscribed number of legible characters, which shall correspond to the number on the pawn ticket and shall be maintained in a regular record kept by the pawn broker. The pawn brokers shall be required to furnish all information required by state or federal law to be given to borrowers. A separate pawn ticket shall be prepared and delivered to the pledger at the time of pledge for every item pledged.

9-339. PAWN BROKERS RECORDS.

Each pawn broker licensed to do business within the City of Delta shall maintain the records as required by Utah Code Annotated § 11-6-1 (1953), as amended.

9-340. ADDITIONAL PROVISIONS RELATING TO PAWN BROKERS.

9-341. MAXIMUM RATES AND CHARGES.

It shall be a violation of this ordinance for any pawn broker to charge any interest or other rate in excess of the amount permitted by Utah Code Annotated § 11-6-4 (1953),

as amended. It shall be unlawful for any pawn broker to charge or receive any appraisal fee, storage fee or any fee or charge other than the fees and charges provided for in Utah Code Annotated § 11-6-4 (1953), as amended. No charges shall be made for restoring stolen property to its rightful owner.

9-342. PERSON FROM WHOM PAWN MAY NOT BE TAKEN.

It shall be unlawful for any pawn broker, pawn shop keeper, his servant or employee to receive any goods, articles or things in pawn or pledge from a person who is intoxicated, under the influence of drugs, insane or any person under the age of eighteen (18) years.

9-343. EMPLOYMENT OF MINORS PROHIBITED.

It shall be unlawful for any person to employ any clerk or person under the age of eighteen (18) years to receive any pledge or make any loan.

9-344. RESPONSIBILITY FOR ACTS OR EMPLOYEES. The holder of a pawn broker's license shall be responsible for any and all acts of his employees and for any violation by them of the provision of this ordinance.

9-345. SAFEKEEPING OF PLEDGES. Every pawn broker licensed under the provisions hereof shall provide a safe place for the keeping of pledges received by him and shall provide sufficient insurance on the property held on pledges for the benefit of pledgers in case of destruction by fire or other hazard.

9-400. LICENSING PROVISIONS FOR SALE OR CONSUMPTION OF INTOXICANTS.

9-410. GENERAL PROVISIONS.

9-411. DEFINITIONS.

All terms used in this part unless otherwise defined in this Title 9-000, shall have the meanings specified in the Utah Alcoholic Beverage Control Act, as amended.

9-420. LICENSES TO SELL ALCOHOLIC BEVERAGES.

9-421. LICENSES TO SELL INTOXICANTS AT RETAIL.

A. It shall be a Class "B" misdemeanor for a person to engage in the business of selling light beer at retail, in bottles or draft, or to engage in the business of selling other alcoholic beverages without first having procured a license therefor from the City of Delta and having paid the license fee required by this part, except as otherwise set out in this Chapter 9-400.

B. It shall be a Class "B" misdemeanor for any person to sell beer or other alcoholic beverages after revocation of a license issued therefor pursuant to this ordinance.

C. A separate license shall be required for each separate place of business and the license shall at all times be conspicuously displayed in the licensed premises to which it shall refer or for which it shall have been issued. All licensees shall comply with the Utah Alcoholic Beverage Control Act, the regulations of the Utah Liquor Control Commission and all ordinances of Delta City.

9-422. APPLICATIONS FOR LICENSE.

A. All applications for license authorized by this part shall be verified and shall be filed with the City Recorder. The applications must state the applicant's name in full and that he understands and has read and complied with the requirements and possesses the qualifications specified in the Utah Alcoholic Beverage Control Act and in this ordinance. If the applicant is a partnership, the names of all general partners must be stated. If the applicant is a corporation, the names and addresses of all officers and directors must be stated.

B. The application must be subscribed to by the applicant or agent of the applicant who shall state under oath that the facts contained therein are true.

9-423. APPLICATIONS ACCOMPANIED BY FEES.

The applications for licenses as provided in this ordinance shall be accompanied by the fees provided for herein which shall be paid to the Delta City Treasurer. The fees shall be returned to the applicant if the application is denied.

9-424. REFERRAL TO LAW ENFORCEMENT AGENCY.

All applications filed in accordance with the provisions of this ordinance shall be referred to the law enforcement agency having jurisdiction over Delta City, for inspection and report. The Millard County Sheriff shall make a report to the City Council within 15 days after receiving such application regarding the general reputation and character of the persons who habitually frequent the premises proposed to be licensed; the nature and kind of business conducted at such place by the applicant or by any other person or by the applicant at any other place; whether the business is and has been conducted in a lawful, quiet and orderly manner; the nature and kind of entertainment, if any, at such place; whether gambling is or has been permitted on the premises or by the applicant at any other place and the proximity of such premises to any school or church. The Millard County Sheriff shall also include to such report his recommendation as to whether or not the application should be granted.

9-425. APPLICATION FOR RENEWAL.

All applications for renewal license filed by the holders of existing licenses shall be filed with the City Recorder at least 30 days prior to the expiration date of the license currently held by such applicant. Any person who fails to file such application within the specified

time limit shall close his licensed premises on the expiration date of the then issued license and shall keep the premises closed for any and all business involving the sale of alcoholic beverages until the date that his/her new license is issued by Delta City.

9-426. QUALIFICATIONS OF APPLICANT.

1. No license shall be granted to any retailer to sell intoxicants within Delta City unless he/she shall be of good moral character, over the age of 21 years and a citizen of the United States.

2.

a. The Commission may not grant an on-premise beer retailer license to an outlet whose proprietor has been convicted of:

(i) A felony under any Federal or State law;

(ii) Any violation of any Federal or State law or local ordinance governing the sale, manufacture, distribution, warehousing, adulteration or transportation of alcoholic beverages; or

(iii) Of any crime involving moral turpitude.

b. In the case of a partnership or a corporation, the proscription under subsections 2(a) applies if any partner, managing agent, officer, director or stockholder who holds at least 20% of the total issued and outstanding stock of an applicant corporation has been convicted of any offense as provided in this subsection.

3. Upon the arrest of any on-premise beer retailer licensee on any charge set forth in subsection (2), the City Council may take emergency action by immediately suspending the operation of the licensee according to the procedures and requirements of Section 9-435 of the Revised Ordinances of Delta City (1981 edition), as amended, for the period during which the criminal matter is being adjudicated.

4.

a.

(i) The City Council may not grant an on-premise beer retailer license to any person who has had any type of license, agency or permit issued under this title revoked within the last three years.

(ii) The City Council may not grant an on-premise beer retailer license to any corporation or partnership applicant if any partner, managing agent, officer, director or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant is or was a partner or managing agent or any partnership, or is or was a managing agent, officer, director or a stockholder who holds or held at least 20% of the

total issued and outstanding stock of any corporation that had a liquor or beer license, agency or permit revoked within the last three years.

b. A corporation or partnership applicant may not be granted an on-premise beer retailer license if any partner or managing agent of the partnership or any managing agent, officer, director or stockholder who holds at least 20% of the total issued and outstanding stock of the corporate applicant had a liquor or beer license, agency or permit revoked while acting in their individual capacity within the last three years.

c. A person acting in an individual capacity may not be granted an on-premise retailer license if that person was a partner or managing agent of a partnership or a managing agent, officer, director or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had a liquor or beer license, agency or permit revoked within the last three years.

5. Minor may not be granted an on-premise beer retailer license.

6. If any person to whom a license has been issued under this part no longer possesses the qualifications required by this title for obtaining that license, the City Council may suspend or revoke that license.

9-427. BOND REQUIRED.

No license required by this part shall be granted by the City Council until the applicant has filed with the City Recorder a bond in the sum of \$2,000.00 and in all other respects meeting the requirements set out in Utah Code Annotated § 32A-10-205 (1953), as amended. This bond shall be made in favor of Delta City.

9-428. DEPARTMENT OF HEALTH PERMIT.

No license shall be issued under this ordinance until the applicant therefor shall have first obtained from the Department of Health of Delta City a permit which shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage, distribution and sale of light beer and other intoxicants complies with all the health regulations of Delta City and of the State of Utah.

9-430. RESTRICTIONS ON LICENSES, REVOCATION.

9-431. LICENSES NOT TRANSFERABLE.

Licenses issued pursuant to this ordinance shall not be transferable to any place of business or other premises other than the licensed premises, nor to any person other than the person or persons to whom the license is issued. If such license is revoked by the City Council, the fee paid by the licensee to Delta City for the license shall be forfeited to Delta City.

9-432. OPERATIONAL RESTRICTIONS.

Each person granted a beer retailer license or a State liquor license and the employees and management personnel of such licensees shall abide by the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

A. It is unlawful for any person to sell, offer to sell, or otherwise furnish or supply any alcoholic beverages in any dance hall or theater. No license shall be granted to sell alcoholic beverages in any dance hall or theater.

B. It shall be unlawful to sell, offer to sell, or otherwise furnish or supply any alcoholic beverages except on business premises licensed under this ordinance or as otherwise provided under this ordinance.

C. Subject to subparagraph D. below, business establishments licensed with Class "B" retail beer licenses and private clubs licensed with State liquor licenses, shall not sell or offer for sale beer or liquor after 1:00 a.m. and before 10:00 a.m. of the same day. Such business establishments shall not be or remain open after 2:00 a.m. of any day, nor before 10:00 a.m. of the same day.

D. Business establishments licensed with Class "A" retail beer licenses shall not sell or offer to sell beer to the public after 1:00 a.m. of any day, nor before 7:00 a.m. of the same day.

E. Notwithstanding the foregoing regulation of the hours for business establishments operating under a Class "B" retail beer license, businesses possessing Class "A" and Class "C" retail beer license may remain open to the public for business, at hours other than those set out in the subparagraph C. above. Provided, it shall be unlawful for businesses possessing class "C" beer licenses to sell, offer to sell or otherwise dispose of beer or other alcoholic beverages or allow the same to be drunk or consumed after 1:00 a.m. of any day, nor before 10:00 a.m. of the same day.

F. It shall be unlawful for any person having a Class "B" retail beer license, or a license to sell liquor, if operating as a private club, or his agents or employees, to not remove or cause to be removed from the licensed premises all patrons, customers or individuals not employed on the premises by the times specified in subsection C. above.

G. It shall be unlawful for any person having a Class "B" retail beer license or a license to sell liquor if operating as a private club, or for his agents or employees to permit any patron, customer or individual not employed on the premises to remain in such licensed premises after the closing time provided above; provided, however, no person holding a license under this ordinance may employ more than two (2) persons on the premises after the closing hour without first obtaining permission from the law enforcement agency having jurisdiction over Delta City.

H. Licensed premises shall be kept sufficiently illuminated at all times while they are occupied or open for business, such that all tables, chairs and occupants are open to view from the main floor and no booth or type of stall shall be maintained unless all tables, chairs and occupants are kept open to a full view from the main floor of such licensed premises. The licensed premises shall be equipped such that they can be brightly illuminated immediately in emergency situations.

I. It shall be unlawful to advertise the sale of beer or other alcoholic beverages except under such regulations as are made by the Utah Alcoholic Beverage Control Commission.

J.

a. All employees and agents of a person holding a Class "A" retail beer license under this ordinance, may not sell beer on the premises of a beer retailer for off-premise consumption except under the supervision of a person twenty-one (21) years of age or older who is on the premises.

b. Minors may not be employed by or be on the premises of an on-premise beer retailer licensee to sell or dispense beer.

c. Minors may not be employed by or be on the premises of any tavern.

K. It shall be unlawful for any person to sell beer or liquor except in the manner for which he has been licensed under the provisions of this ordinance.

L. It shall be unlawful for any person licensed under this Chapter (9-400) to allow any person under the age of twenty-one (21) years to purchase or consume any beer or other alcoholic beverage within any premises for which such licensee has been issued a license under this chapter.

M. It shall be unlawful for any person or the agents of any person having a Class "B" beer license issued under this chapter (9-400) to allow persons under the age of twenty-one (21) years to be present on any business premises for which such licensee has been issued a license under this chapter.

N. It shall be unlawful for any person or the agents or employees of any person having a Class "C" beer license issued under this Chapter (9-400) or a state liquor license issued under Title 32A Utah Code Annotated, to allow any person under the age of twenty-one (21) years, who has consumed, or is consuming beer or any other alcoholic beverage, to be in or remain on any premises for which such licensee has been issued a license to sell alcoholic beverages. It shall be a defense to prosecution under this

subsection that the licensee or his agents or employees detained a person under the age of twenty-one (21) years who had consumed beer or other alcoholic beverages on the licensed premises solely for the purpose of holding the person so detained until the arrival of peace officers summoned by or at the request of the licensee or his agents or employees.

O. Any person operating a business pursuant to a Class "C" beer license issued under this Chapter (9-400) or a State Liquor license issued under Title 32A, Utah Code Annotated, who permits or whose agents or employees permit persons under the age of twenty-one (21) years to enter or remain upon the licensed premises shall post a conspicuous notice, which shall read "No persons under twenty-one (21) years of age are permitted to buy or consume alcoholic beverages. No person under the age of twenty-one (21) years shall possess alcoholic beverages on these premises, nor enter or remain on these premises after consuming alcoholic beverages."

P. It shall be unlawful for any person having a Class "C" beer license, or a license to permit consumption of liquor on business premises as provided under this chapter (9-400), to allow persons under twenty-one (21) years of age to be present in any room within any licensed premises within which alcoholic beverages are served or are being served or are being consumed and in which live entertainment is performed. For the purposes of this section, live entertainment shall be deemed to include any one or more actors, musicians, models, comedians or other person appearing in person to provide any kind of performance or show at the request of or with the implied or actual consent of the person to whom the license was issued for the licensed premises or his agents.

Q.

a. Beginning January 1, 1991, a person may not bring onto the premises of an on-premise beer retailer licensee any alcoholic beverage for on-premise consumption.

b. Beginning January 1, 1991, an on-premise beer retailer licensee or its officers, managers, employees or agents may not allow a person to bring onto the on-premise beer retailer licensee premises any alcoholic beverage for on-premise consumption or allow consumption of any such alcoholic beverage on its premise.

c. Beginning January 1, 1991, if any on-premise beer retailer licensee or any of its officers, managers, employees or agents violates this subsection:

(i) The Alcoholic Beverage Control Commission may immediately suspend or revoke the on-premise beer retailer license and the on-premise beer retailer licensee is subject to possible criminal prosecution under Chapter 12 of Title 32A Utah Code Annotated;

(ii) Delta City may immediately suspend or revoke the business license of the on-premise beer retailer licensee; and

(iii) Suspension or revocation of the license issued by the Alcoholic Beverage Control Commission or the license issued by Delta City prohibits the establishment whose license is suspended or revoked from continuing to operate under the other state or local license it may have.

R. An employee of a licensee, while on duty, may not consume an alcoholic beverage or be under the influence of alcoholic beverages.

S. Each on-premise beer retailer licensee (Class "B" and Class "C" beer retail licenses), shall display in a prominent place on the business premises:

a. The on-premise beer retailer license that is issued by the Department of Alcoholic Beverage Control; and

b. A sign in large letters stating: "Warning: the consumption of alcoholic beverages purchased in this establishment may be hazardous to your health and the safety of others."

T. It shall be unlawful for any person to dispense or furnish or cause to be furnished or permit any person in his/her employ to furnish or dispense alcoholic beverages to any person through a drive-up window.

U. The provisions of Title 32A-10-206, Utah Code Annotated (1953), as amended, not otherwise specifically set forth in this chapter (9-400 et seq.) are hereby adopted by reference and made a part of this chapter.

9-433. INSPECTION.

A. All licensed premises shall be subject to inspection by any officer, agent or peace officer of Delta City or other law enforcement agency having jurisdiction in Delta City, the Utah Alcoholic Beverage Control Commission or the Utah State Board of Health. Every licensee shall, at the request of the Board of Health, furnish to it samples of beer which are available for purchase and sale.

B. Any license granted pursuant to this part may be revoked on a finding by the governing body that the licensee has had 10 days or more notice from the Utah State Board of Health or from the Delta City Board of Health that the licensee is in violation of one or more health ordinances, rules or regulations of this municipality or of the Utah Division of Health and has failed to comply with such health ordinance, rule or regulations.

C. The City Council may direct the Millard County Sheriff to close down any business licensed under this part after the Delta City Board of Health has determined that the continued operation of the business presents an imminent danger to the health of the community or to persons who may eat or drink at the business.

9-434. SUNDAY SALES PROHIBITED. REPEALED on May 2, 1983.

9-435. REVOCATION OR SUSPENSION OF LICENSE.

A. Delta City may, after a hearing before the hearing board provided for in Section 9-119 of this chapter, revoke or suspend any license granted under this ordinance on a finding by it that the licensee or his officers, agents or employees have violated any provision of this ordinance or any ordinance of this municipality, whether now or hereafter enacted, which in any way relates to the operation of the business or affects the safety of the public.

B. A hearing may be requested to any person:

1. That is denied or refused renewal of a license by any officer, agent or employee of Delta City.

2. Whose license is revoked, restricted, qualified or limited from that for which it was first issued.

C. The request for hearing must be made in writing to the Mayor or City Recorder within 30 days following the date that the notice denying, refusing, revoking, qualifying, restricting or revoking the license is mailed by Delta City to the applicant or license holder at the address which appears on the application or license of such person.

D. Following receipt of a request for hearing, the hearing board shall inform the persons requesting a hearing of the time and place the hearing is to be held. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses Delta City may produce to support its decision and to present his own evidence in support of his contentions. The hearing board shall, within 10 days after the conclusion of the hearing, provide a written decision to the City Council and to the person who requested the hearing.

E. This ordinance shall not be construed so as to afford any aggrieved party more than one hearing before the hearing board nor shall the hearing provided in this part apply to any criminal complaint or proceedings.

F. Any person whose license to sell intoxicants has been revoked, qualified or limited or for which a license application has been refused after hearing before the hearing board shall not be entitled to a license except by specific approval of the City Council and then only with such restrictions as the City Council may deem necessary to assure compliance with the ordinances of the City of Delta and the laws of the State of Utah.

9-440. LICENSES TO SELL BEER AT RETAIL.

9-441. RETAIL BEER LICENSES.

Retail beer licenses issued under this ordinance shall be of the following kinds and shall carry the following privileges and shall be known as Class "A," Class "B" and Class "C" licenses.

A. Class "A" retail beer licenses, to sell beer for "off-premise" consumption, such as general food and convenience stores, shall entitle the licensee to sell beer on the premises licensed in original containers, in any size not exceeding two-liters, for consumption off the licensed premises, subject to the provisions of the Utah Alcoholic Beverage Control Act and the Ordinances of Delta City.

B. Class "B" retail beer licenses shall mean "taverns," which are defined as including "beer bars, parlors, lounges, pubs, cabarets and night clubs where the revenue from the sale of beer exceeds the revenue of the sale of food, although food need not be sold in such establishments, and shall entitle the licensee to sell beer in open containers, in any size not exceeding two-liters and on draft, for consumption on the premises, subject to the provisions of the Utah Alcoholic Beverage Control Act.

C. Class "C" retail beer licenses, shall mean restaurants, bowling alleys, golf courses and any other food and/or beverage facilities, specifically excluding taverns, and shall entitle the licensee to sell beer in original containers, in any size not exceeding two-liters and on draft, for consumption on the premises, subject to the provisions of the Utah Alcoholic Beverage Control Act.

9-442. BEER LICENSE FEES.

In addition to any other business license fee which any person or place of business may be required to pay, there is hereby imposed on each business location of every person engaged in the sale of dispensing of beer the following annual license fees:

Class "A" beer license \$300.00

Class "B" beer license \$300.00

Class "C" beer license \$300.00

Single Event Permit \$50.00

9-443. PURCHASE OF BEER FROM BREWER OR WHOLESALER.

It is a Class "B" misdemeanor for any licensee to purchase or acquire or to have or possess for the purpose of distribution any beer except that which he may have lawfully purchased from a brewer or wholesaler licensed under the provisions of the Utah Alcoholic Beverage Control Act.

9-444. CONTAINER SIZE.

It shall be a Class "B" misdemeanor for any person to sell or for any person to purchase beer in any container larger than two (2) liters or in packages holding more than one container in which any one container in the package contains more than two (2) liters, except persons licensed to sell beer under this ordinance lawfully purchasing beer from a brewer or wholesaler for purposes of sale at retail.

9-450. LICENSING OF PREMISES FOR CONSUMPTION OF LIQUOR.

9-451. REPEALED in its entirety by Ordinance 90-129.

9-452. LIQUOR CONSUMPTION IN UNLICENSED PLACE OF BUSINESS PROHIBITED.

It shall be unlawful for any person to permit or allow customers, members, guests or any other person to consume liquor in a place of business within the City of Delta, which business has not been first licensed with the Utah State Alcoholic Beverage Control Commission. Provided, however, that liquor may be consumed on an occasional social basis on business premises not licensed for consumption if the general public is not invited or admitted to the premises and no consideration is given for admittance or for consumption of liquor.

9-453. REPEALED in its entirety by Ordinance 90-129.

9-454. UNLAWFUL TO AID IN UNLAWFUL ACQUISITION OF LIQUOR.

It is unlawful for any person to aid, counsel, procure or assist in any sale, purchase, gift or other disposition of liquor or to act as an agent or representative of the seller in procuring or effecting the sale or purchase of any liquor except as permitted by the Utah Alcohol Beverage Control Act. Nothing in this ordinance shall be construed as prohibiting any person from purchasing alcoholic beverages contrary to provision of this act when acting as an agent of authorities charged with the enforcement of this ordinance and in the detection and conviction of violators of these provisions.

9-455.

It shall be unlawful for any person licensed under this ordinance for any purpose whatsoever to mix or permit or cause to be mixed or offer to mix a drink containing liquor for sale or for any person to cause to be mixed with a liquor offered for sale, sold or supplied by him as a beverage, any drug or any form of methylic alcohol or any crude, non-rectified or impure form of ethylic alcohol or any other deleterious substance or liquid.

9-456. REPEALED in its entirety by Ordinance 90-129.

9-457. DISPLAY OF LICENSE.

Each license issued pursuant to this chapter shall be displayed at all times on the licensed premises in a place readily visible to the public, in accordance with State law.

9-458.

Every person who, within the scope of his or her employment serves, sells or furnishes alcoholic beverages to the public for consumption on the premises, shall complete an alcohol training and education seminar; providing for persons required to complete said seminar to pay a fee for the costs of administering the same; and providing for the revocation, suspension or withholding of a business license for those businesses or establishments whose employees fail to complete said seminar within the time period set forth in this ordinance.

1. Definitions.

(a) "Alcoholic Beverages" means "beer" and "liquor" as those terms are defined in Utah Code Annotated § 32A-1-5(1), et seq., (1953), as amended.

(b) "Establishment" means any business or businesses which have been issued Class "B" or Class "C" retail beer licenses.

(i) "Class 'B'" license shall mean a retail license that shall entitle the licensee to sell beer in the original containers on the premises for consumption on or off the premises and to sell draft beer for consumption on the premises, subject to the provisions of the Alcoholic Beverage Control Act and the ordinances of Delta City.

(ii) "Class 'C'" license shall mean a retail beer license that shall entitle the licensee to sell draft beer in the original containers for consumption on the premises, subject to the provisions of the Alcoholic Beverage Control Act and the ordinances of Delta City.

2. Alcohol Training and Education Seminar.

Beginning on July 1, 1987, the Alcohol Training and Education Seminar prepared by the commission pursuant to Utah Code Annotated § 32A-17-2 (1953), as amended, shall be completed by every person or any establishment who, within the scope of his or her employment, serves, sells or furnishes alcoholic beverages to the public for consumption on the premises.

3. Licensing of Employees

Every person employed on July 1, 1987, who is required to complete the Alcohol Training and Education Seminar shall complete said seminar before July 1, 1988. Every person hired after July 1, 1987, who is required to complete said seminar shall complete the seminar within six months of commencing employment.

4. Fees.

Persons required to complete the seminar provided for in subsection 2. of this ordinance shall pay to the commission or agency administering the seminar a fee, determined by the commission or agency, which shall not exceed an amount which will offset the costs of administering the seminar.

5. Application of this Ordinance.

Employers, as well as their employees, who are acting within the scope of their employment in those establishments that serve, sell or furnish alcoholic beverages to the public for consumption on the premises, shall be subject to the requirements set forth in subsections 2, 3 and 4 of this ordinance.

6. Penalties.

No person shall be granted a license to operate or maintain a trade, profession or calling, the transaction or carrying on of which requires a license, within Delta City, State of Utah, if such person operates an establishment which as part of its business serves, sells or furnishes alcoholic beverages to the public for consumption on the premises, unless that person shall show by certificate(s) granted by the Utah Division of Alcoholism and Drugs of the Department of Social Services that each person of the business engaged in the serving, selling or furnishing of such alcoholic beverages on the premises has completed the Alcohol Training and Education Seminar, as required by subsections 2, 3 and 4 of this ordinance. Delta City may revoke, suspend or withhold the business licenses of any establishment whose employer, employees or any other person who serves, sells or furnishes alcoholic beverages to the public for on premise consumption, for and on behalf of said establishment, fails to complete said Alcohol Training and Education Seminar within the time period set forth in subsection 3 of this ordinance.

9-500. ADDITIONAL REMEDIES.

9-501. CIVIL ACTION TO COLLECT LICENSE FEE.

In addition to any other remedies that may be available to Delta City for enforcement of this Title 9-000, Delta City shall be entitled to bring a civil action against any person failing to purchase a license as required hereunder for the license fee established herein, together with penalties, if any, and costs of court.

9-502. COMPLIANCE WITH ZONING CODE.

Delta City shall not be required to issue a business license to any person when operation of the business for which application is made would constitute a use not permitted under the Zoning Ordinance for Delta City (Ordinance No. 81-26) or any amendments thereto, nor does issuance of a business license by Delta City constitute a waiver of any zoning violations, nor does such issuance waive any valid zoning requirement.

9-503. ISSUANCE OF LICENSES AFTER REVOCATION.

No person whose license has been revoked or whose application to renew a license has been denied within the calendar year shall be issued a license to thereafter conduct the same or another business without the specific approval of the City Council for issuance of the license. In the event that the City Council refuses to approve issuance of a new license, it shall state in writing the reasons for its refusal.

9-600. SEXUALLY-ORIENTED BUSINESS AND EMPLOYEE LICENSING.

9-601. PURPOSE.

It is the purpose and object of this ordinance that the City establishes reasonable and uniform regulations governing the time, place and manner of operations of Sexually Oriented Businesses and their employees in Delta City, Utah. This ordinance shall be construed to protect the governmental interests recognized by this ordinance in a manner consistent with constitutional protections provided by the United States and Utah constitutions.

9-602. General Applicability.

This ordinance imposes regulatory standards and license requirements on certain business activities, which are characterized as "Sexually Oriented Businesses" and certain employees of those businesses characterized is "Sexually Oriented Business employees." Except where the context or specific provisions require, this ordinance does not supersede or nullify any other related ordinances, including, but not limited to, Chapter 13-1200, et seq. Pornography and Obscenity.

9-603. Obscenity.

Notwithstanding anything contained in this ordinance nothing herein shall be deemed to permit or allow the showing or display of any matter which is contrary to the provisions of Chapter 13 of the Revised Ordinances of Delta City (1981) as amended, or other applicable federal or state statutes prohibiting obscenity.

9-604. DEFINITIONS.

For the purpose of this ordinance, the following words shall have the following meanings:

(a) "Adult Business" shall mean an Adult Motion Picture Theater, Adult Bookstore, Adult Video store or Adult Theater.

(b) "Adult Bookstore" or "Adult Video Store" means a commercial establishment which:

(1) Holds itself out to be such a business, or

(2) Excludes minors from more than fifteen (15%) percent of the retail floor or shelf space of the premises, or

(3) Which as one of its principal purposes, offers for sale or rental, for any form of consideration, any one or more of the following: Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations the central theme of which depicts or describes specified sexual activities or specified anatomical areas, or instruments, devices or paraphernalia which are designated for use in connection with specified sexual activities, except for legitimate medically recognized contraceptives.

(c) "Adult Motion Picture Theater" means a commercial establishment which:

(1) Excludes minors from the showing of two consecutive exhibitions; repeated showing of any single presentation shall not be considered a consecutive exhibition; or

(2) As its principal business, shows, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions which are primarily characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(d) "Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment which:

(1) Holds itself out as such a business; or

(2) Excludes minors from the showing of two consecutive exhibitions; repeated performances of the same presentation shall not be considered a consecutive exhibition; or

(3) As its principal business, features persons who appear in live performance in a state of nudity or which are characterized by the exposure of specified anatomical areas, or by specified sexual activities.

(e) "Business License Authority" shall mean the City's Business License Officer or designee.

(f) "Employ" shall mean hiring an individual to work for pecuniary or any other form of compensation whether such person is hired on the payroll of the employer, as an independent contractor, as an agent or in any other form of employment relationship.

(g) "Escort" shall mean any person who, for pecuniary compensation, dates, socializes, visits, consorts with or accompanies or offers to date, consort, socialize, visit or accompany another or others to or about social affairs, entertainment or places of amusement or within any place of public or private resort or any business or commercial establishment or any private quarters. "Escort" shall not be construed to include persons who provide business or personal services such as licensed private nurses, aides for the elderly or handicapped, social secretaries or similar service personnel (1) whose relationship with their patron is characterized by a bona fide contractual relationship

having a duration of more than twelve (12) hours or (2) who provide a service not principally characterized as dating or socializing. "Escort" shall also not be construed to include persons providing services such as singing telegrams, birthday greetings or similar activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed and of a duration of not longer than one (1) hour.

(h) "Escort service" shall mean an individual or entity who, for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.

(i) "Escort service runner" shall mean any third person, not an escort, who, for pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort or patron by contacting or meeting with escort services, escorts or patrons at any location within Delta City, whether or not said third person is employed by such escort service, escort, patron, or by another business or is an independent contractor or self-employed.

(j) "Nude Entertainment Business" shall mean a business, including Adult Theater, where employees perform or appear in the presence of patrons of the business premises in a state of nudity. A business shall also be presumed to be a "Nude Entertainment Business" if the business holds itself out as such a business.

(k) "Nude and semi-nude dancing agency" shall mean any person, agency, firm, corporation, partnership or any other entity or individual which furnishes, books, or otherwise engages or offers to furnish, book or otherwise engage the service of a professional dancer licensed pursuant to this ordinance for performance or appearance at a business licensed for Nude Entertainment or Adult Theaters.

(l) "Nudity" or "state of nudity" means:

(1) The appearance of a human anus, male genitals, female genitals, or female nipple or areola;

(2) A state of dress which fails to opaquely cover an anus, male genitals, female genitals, nipple or areola of the female breast.

(m) "Out-Call Services" shall mean services of a type performed by a Sexually Oriented Business employee outside of the premises of the licensed Sexually Oriented Business in any place of private resort or private quarters including but not limited to escorts, models, dancers and other similar employees regardless of the employee's state of dress.

(n) "Patron" means any person who contracts with or employs any escort services or escort or the customer or any business licensed pursuant to this ordinance.

(o) "Pecuniary compensation" means any commission, fee, salary, tip, gratuity, hire, profit, reward or any other form of consideration.

(p) "Person" shall mean any person, unincorporated association, corporation, partnership or other legal entity.

(q) "Semi-nude" means a state of dress in which a person wears opaque clothing covering (1) only the male or female genitals, pubic region, anus, or (2) the nipple and areola of the female breast, by an opaque cover that is four inches wide in the front and five inches wide in the back tapering to one inch at the narrowest point. A person wearing clothing covering less than (1) the male or female genitals, pubic region, anus or (2) the nipple and areola of the female breast by an opaque cover that is four inches wide in the front and five inches wide in the back tapering to one inch at the narrowest point shall be considered to be nude for the purposes of this ordinance.

(r) "Sexually Oriented Business" shall mean Nude Entertainment Businesses, Sexually Oriented Out-Call Services, Adult Businesses, Semi Nude Dancing Bar, and Nude and Semi-Nude Dancing Agencies as defined by this ordinance.

(s) "Sexually Oriented Business Employees" shall mean those employees who work on the premises of adult businesses, nude entertainment businesses, out-call services, or nude or semi-nude dancing agencies in activities related to the sexually oriented portion of the business. This includes all managing employees, dancers, escorts, models, and other similar employees of adult businesses, nude entertainment businesses, out-call services, or nude or semi-nude dancing agencies whether or not hired as employees, agents or as independent contractors. Sexually oriented business employees shall not include individuals whose work is unrelated to the sexually oriented portion of the business such as, janitors, bookkeepers and similar employees. "Sexually Oriented Business Employees" shall not include cooks, serving persons, bartenders and similar employees, except where they may be managers or supervisors of the business. All persons making out-call meetings under this ordinance, including escorts, models, dancers, guards, escort runners, drivers, chauffeurs and other similar employees regardless of the person's state of dress shall be considered "Sexually Oriented Business Employees."

(t) "Specified Anatomical Areas" shall mean the human male or female pubic area or anus with less than a full opaque covering, or the human female breast from the beginning of the areola, papilla or nipple to the end thereof with less than full opaque covering.

(u) "Specified Sexual Activities" means:

(1) Acts of:

(A) Masturbation;

- (B) Human sexual intercourse;
 - (C) Sexual copulation between a person and a beast;
 - (D) Fellatio;
 - (E) Cunnilingus;
 - (F) Bestiality;
 - (G) Pederasty;
 - (H) Buggery; or
 - (I) Any anal copulation between a human male and another human male, human female or beast.
- (2) Manipulating, caressing or fondling by any person of:
 - (A) The genitals of a human;
 - (B) The pubic area of a human; or
 - (C) The uncovered female nipple and areola.
 - (3) Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

9-605. Zoning.

It shall be unlawful for any Sexually Oriented Business to do business at any location within the City not zoned for such business. Sexually Oriented Businesses licensed pursuant to this Ordinance shall only be allowed in areas zoned for their use in Title 12-000, et seq., of the Revised Ordinances of Delta City. They shall not be permitted as a home occupation.

9-606. Business License Required.

It shall be unlawful for any person to operate a Sexually Oriented Business, as specified below, without first obtaining a Sexually Oriented Business license. The business license shall specify the type of business for which it is obtained.

9-607. Business Categories: Single License.

- (a) It is unlawful for any business premises to operate or be licensed for more than one category of Sexually Oriented Business, except that a business may have a license for both Out-Call Services and Nude and Semi-nude Dancing Agency on the same premises.

(b) The categories of Sexually Oriented Businesses are:

- (1) Out-Call Services.
- (2) Adult Businesses.
- (3) Nude Entertainment Businesses.
- (4) Nude and Semi-Nude Dancing Agency.

9-608. Employee license.

It is unlawful for any Sexually Oriented Business to employ, or for any individual to be employed by a sexually Oriented Business in the capacity of a Sexually Oriented Business Employee unless that employee first obtains a Sexually Oriented Business Employee license.

9-609. Exemptions from license requirements.

The licensing provisions of this ordinance shall not apply to any sex therapist or similar individual licensed by the State of Utah to provide bona fide sexual therapy or counseling licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to any educator licensed by the State of Utah for activities in the classroom.

9-610. Legitimate artistic modeling.

(a) The City does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First Amendment or similar state protections. The city does intend to prohibit prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding the provisions of subsection b. below, a licensed Out-Call employee may appear in a state of nudity before a customer or patron providing that a written contract for such appearance was entered into between the customer or patron and the employee and signed by both the customer or patron and the employee at least twenty-four hours before the nude appearance. All of the other applicable provisions of this chapter shall still apply to such nude appearance.

(b) In the event of a contract for nude modeling signed more than forty-eight hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this chapter. During such unlicensed nude appearance, it is unlawful to:

- (1) Appear nude or seminude in the presence of persons under the age of eighteen;
- (2) Allow, offer or agree to any touching of the contracting party or other person by the individual appearing nude;

- (3) Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor;
- (4) Allow, offer, commit or agree to any sex act as validly defined by city ordinances or state statute;
- (5) Allow, offer, agree or permit the contracting party or other person to masturbate in the presence of the individual contracted to appear nude;
- (6) Allow, offer or agree for the individual appearing nude to be within five feet of any other person while performing or while nude or semi-nude.

9-611. License Application; Disclosure.

Before any applicant may be licensed to operate a Sexually Oriented Business or as a Sexually Oriented Business Employee pursuant to this ordinance, the applicant shall submit, on a form to be supplied by the Delta City Business License Officer, the following:

(a) The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name.

(b) If the applicant is a corporation, partnership or limited partnership or individual or entity doing business under an assumed name the information required below for individual applicants shall be submitted for each partner and each principal of an applicant and for each officer, director and any shareholder (corporate or personal) of more than ten percent of the stock of any applicant. Any holding company, or any entity holding more than ten percent of an applicant, shall be considered an applicant for purposes of disclosure under this chapter.

(1) The shareholder disclosure requirements above shall only be applicable for Out-Call service licenses.

(c) All corporations, partnerships or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership or non-corporate entity to sign the checks for such corporation, partnership or non-corporate entity.

(d) For all applicants or individuals the applications must also state:

- (1) any other names or aliases used by the individual;
- (2) the age, date and place of birth;
- (3) height;
- (4) weight;
- (5) color of hair;

- (6) color of eyes;
 - (7) present business address and telephone number;
 - (8) present residence and telephone number;
 - (9) Utah driver's license or identification number;
 - (10) Social security number.
- (e) Acceptable written proof that any individual is at least 18 years of age or, in the case of employees to be employed in businesses where a different age is required, proof of the required age;
- (f) Attached to the form as provided above, two color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the local law enforcement agency. For persons not residing in Delta City the photographs and fingerprints shall be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency.
- (g) For any individual required to obtain a Sexually Oriented Business Employee license to perform out-call services, or as a Nude Entertainer, a certificate from the Millard County Health Department, or other health agency or personnel designated by Delta City stating that the individual has, within 30 days immediately preceding the date of the application, been examined and found to be free of any contagious or communicable disease;
- (h) A statement of the business, occupation or employment history of the applicant for three years immediately preceding the date of the filing of the application;
- (i) A statement detailing the license or permit history of the applicant for the five year period immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate has ever had a license, permit, or authorization to do business denied, revoked or suspended, or has had any professional or vocational license or permit denied, revoked or suspended in this or any other county, city, state, or territory. In the event of any such denial, revocation or suspension, state the date, the name of issuing or denying jurisdiction and state in full the reasons for the denial, revocation or suspension. A copy of any order or denial, revocation or suspension shall be attached to the application;
- (j) All criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests for the applicant, individual or entity subject to disclosure under this chapter for five years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a

minor traffic offense); stating the date, place, nature of each conviction and plea of nolo contendere and sentence of each conviction or other disposition; identifying the convicting jurisdiction and sentencing court and providing the court identifying case numbers or docket numbers. Application for a Sexually Oriented Business or Employee license shall constitute a waiver of disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the business or employee license;

(k) In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located;

(l) A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee and any rules, regulations or employment guidelines under or by which the business intends to operate. This description shall also include:

(1) the hours that the business or service will be open to the public and the methods of promoting the health and safety of employees and patrons and preventing them from engaging in illegal activity;

(2) the methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities;

(3) the methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this ordinance of other statutes or ordinances;

(4) the methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.

9-612. Changes in Information.

Any change in the information required to be submitted under this ordinance for either a Sexually Oriented Business license or Sexually Oriented Business Employee license shall be given, in writing, to the Business License Authority and the local law enforcement, within fourteen days after such change.

9-613. Transfer Limitations. Sexually Oriented Business licenses.

Granted under this chapter shall not be transferable. It is unlawful for a license held by a corporation, partnership or other non-corporate entity to transfer any part in excess of 10% thereof, without filing a new application and obtaining prior City approval. If any such transfer of a business license occurs, the license is immediately null and void and the business shall not operate until a separate new license has been properly issued by the City as herein provided.

9-614. Licensee Fees.

(a) Each applicant for a Sexually Oriented Business license shall be required to pay regulatory license fees pursuant to the schedule established by resolution of the Delta City council, including:

(1) Yearly business regulatory license fees in the following categories:

(A) Adult businesses,

(B) Out-Call businesses,

(C) Nude and semi-nude dancing agencies and nude entertainment businesses;

(2) For each business applicant, an initial investigation fee for each applicant required to submit a separate disclosure application;

(3) Yearly sexually oriented business employee license fees in the following categories:

(A) Any employee providing Out-Call business services away from the premises of the Out-Call business,

(B) Adult business employees, Out-Call business employees requiring a license but not performing any services outside the licensed premises, nude entertainment business employees requiring a license but not individually providing nude entertainment services to patrons and employees of Nude and Semi-Nude Dancing Agencies requiring licenses but who are not performers,

(C) Employees of nude entertainment businesses personally providing nude entertainment to patrons.

(D) Professional dancers performing seminude or nude;

(b) Any individual applying for more than one license at the same time shall pay the higher of all applicable fees and an additional twenty dollars (\$20.00) for each additional license requested.

(c) These fees shall be in addition to the other licenses and fees required to do business in the City.

9-615.q Cost Bond.

Each applicant for a Sexually Oriented Business License shall post with the City's Business License Officer a cash or corporate surety bond payable to Delta City in the amount of two thousand dollars (\$2,000.00). Any fines assessed against the business, officers or managers for violations of city ordinances shall be taken from this bond if not paid in cash within ten (10) days after notice of the fine unless an appeal is filed as provided by this chapter. In the event that funds are drawn against the cash or surety bond to pay such fines the bond shall be replenished to two thousand dollars (\$2,000.00) within fifteen days of the date of notice of any draw against it.

9-616. Term of License and Pro-ration of License Fee.

Sexually Oriented Business and Employee licenses issued pursuant to this ordinance shall be valid from the date of issuance through January 1st of each succeeding year. The license fee required under Section 9-614 above shall be prorated for any portion of a year pursuant to City Ordinance.

9-617. Single Location and Name.

(a) It is unlawful to conduct business under a license issued pursuant to this ordinance at any location other than the licensed premises. Any location to which telephone calls are automatically forwarded by said business shall require a license.

(b) It is unlawful for any Sexually Oriented Business to do business under any name other than the business name specified in the application.

9-618. Display of License.

It is unlawful for any Sexually Oriented Business in Delta City to fail to display the license granted pursuant to this ordinance in a prominent location within the business premises. It shall be unlawful for any individual licensed pursuant to this ordinance to fail to carry their employee license on their person at all times while engaged in licensed activities within the corporate boundaries of the City. If the individual is nude such license shall be visibly displayed within the same room as the employee is performing. It is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City, when requested to do so by law enforcement personnel or Delta City licensing or other enforcement personnel or health official.

9-619. License in Advertising.

It is unlawful for any advertisement by the Sexually Oriented Business or employee to fail to state that the business or employee is licensed by the City and shall include the Delta City license number.

9-620. Issuance of License.

(a) The City business license official shall approve the issuance of a license to an applicant within 30 days after receipt of an application, unless the official finds one or more of the following:

(1) The applicant is under 18 years of age or any higher age, if the license sought requires a higher age;

(2) The applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a Sexually Oriented Business;

(3) The applicant has failed to or falsely answered a material question or request for information as authorized by this chapter;

(4) The applicant has been convicted of a violation of a provision of this ordinance within two years immediately preceding the application; however, the fact that a conviction is being appealed shall have no effect on the denial;

(5) The premises to be used for the business have been disapproved by the local or regional Health Department, the City Fire Department or Millard County Fire District, the local law enforcement agency, the City building official, or the City zoning official as not being in compliance with applicable laws and ordinances of Delta City. If any of the foregoing reviewing agencies cannot complete their review within the thirty-day approval or denial period the agency or department may obtain from the City Business License official an extension of time for their review of no more than fifteen days. The total time for the city to approve or deny a license shall not exceed forty-five days from the receipt of an application. Businesses located outside of the corporate boundaries of the City, but requiring a license under this chapter, may be denied a license pursuant to this chapter if the business does not have a valid business license to conduct business at the business location from the appropriate jurisdiction for the location;

(A) Upon receipt of an application all departments required to review the application shall determine within seven days whether or not the application is incomplete in items needed for processing. Incomplete applications shall immediately be returned to the applicant with a specification of the items which are incomplete.

(B) The time for processing applications specified in this section shall begin to run from the receipt of a complete application.

(C) In the event that a license for nude entertainment, nude and semi-nude dancing agencies, adult businesses, or nude entertainment businesses, has not been disapproved within thirty days or the forty-five days allowed after an extension, the City shall issue the license pending completion of the City's review.

(D) Any license issued pursuant to subsection (C) above may be revoked by the City pursuant to the revocation procedures of Title 13, Section 13-1210-14 through 13-1210-16 if the completed review determines that the license should have been denied.

(6) The license fees required by this chapter or by other ordinances have not been paid.

(7) All applicable sales and use taxes have not been paid.

(8) An applicant for the proposed business is in violation of or not in compliance with this ordinance.

(9) An applicant has been convicted or pled nolo contendere to a crime:

(A) Involving prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire, compelling prostitution; aiding prostitution; sale, distribution or display of material harmful to minors; sexual performance by minors; possession of child pornography; public lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape, forcible sodomy; forcible sexual abuse, incest, harboring a runaway child; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction regardless of the exact title of the offense; for which:

(i) Less than two years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than five years, if the convictions are of two or more misdemeanors within the five years; or

(ii) Less than five years have elapsed from the date of conviction, if the offense is of a felony;

(B) The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.

9-621. Adult Business, Interior Design.

(a) In addition to the general requirements of disclosure for a Sexually Oriented Business, any applicant for a license as an Adult Business shall also submit a diagram, drawn to scale, of the premises of the business. The design and construction, prior to granting a license or opening for business shall conform to the following:

(1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding rest rooms;

(2) Rest rooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person to be allowed in

the restroom per stall and only one person in any stall at a time and requiring that patrons shall not be allowed access to manager's station areas;

(3) For businesses which exclude minors from the entire premises all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded;

(4) The diagram required shall not necessarily be a professional engineer's or architect's blueprint; however, the diagram must show marked internal dimensions, all overhead lighting fixtures and ratings for illumination capacity;

(b) It shall be the duty of licensee and licensee's employees to insure that the views from the manager's station of all areas specified in section (1) above remain unobstructed by any doors, walls, merchandise, display racks or any other materials, at all times that any patron is present in the premises, and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted;

(c) The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle measured at floor level. It shall be the duty of licensee and licensee's employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present in the premises.

9-622. Amendment.

It is hereby declared that none of the provisions contained in this title shall vest any rights in any person. Unincorporated association, corporation, partnership, or other legal entity, and may be amended by the City Council at any time.

9-700. SPECIAL LICENSING PROVISIONS.

9-710. SOLICITORS, CANVASSERS, PEDDLERS AND ITINERANT MERCHANTS.

9-711. LICENSE REQUIRED. It shall be unlawful for:

A. A transient merchant, itinerant merchant or itinerant vendor to engage in such business without first obtaining a license therefor in compliance with the provisions of this part.

B. Any person to engage in the business of peddler without first obtaining a permit and license therefor as provided in this part.

C. Any solicitor or canvasser to engage in such business without first obtaining a permit and license therefor in compliance with the provision of this part.

9-712. APPLICATION FOR LICENSE.

A. Applicants for permits and licenses under this part, shall file a sworn application in writing signed by the applicant, if an individual, by all partners, if a partnership, and by the president of a corporation, or by an agent, including a state or regional agent, with the City Recorder which shall give the following information:

1. The name of the applicant, and if the applicant is an employee or agent of a corporation, the name of the corporation.
2. The address of the applicant, and if the applicant is an agent or employee of a corporation, the address of the corporation.
3. A brief description of the nature of the business and the goods to be sold and from whom or where the applicant obtains the goods to be sold.
4. If the applicant is employed by or an agent of another person, the name and permanent address of such other person or persons.
5. The length of time for which the applicant desires to engage in business within the City of Delta.
6. The place or places within the City of Delta where the applicant proposes to carry on his or her business.
7. A list of the other municipalities in which the applicant has engaged in business within the six (6) month period preceding the date of the application.
8. A photograph of the applicant, taken within six (6) months immediately prior to the date of filing the application, which photograph shall be two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
9. A statement as to whether or not the applicant or any of his employers have been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.
10. If the applicant desires to sell fresh vegetables, fruits, meats or other foodstuffs, a statement by a reputable physician of the State of Utah, dated not more than ten (10) days prior to submission of the application, certifying the applicant to be free of infectious, contagious or communicable diseases.

11. If the applicant is employed by another person, firm or corporation, documents showing that the person, firm or corporation for which the applicant proposes to do business is authorized to do business within the State of Utah.

B. At the time of filing the application, a fee of \$25.00 which shall be deposited with the City Recorder, is required.

9-713. INVESTIGATION AND ISSUANCE OF LICENSE.

A. On receiving the application, the City Recorder shall refer it to the Millard County Sheriff who shall cause such investigation of the applicant's business and moral character to be made as he deems reasonable and necessary for the protection of the public good.

B. If as a result of the investigation the applicant's character or business responsibility is found to be unsatisfactory, the Millard County Sheriff shall endorse such upon the application together with a statement of his reasons therefor and return the application to the City Recorder who shall notify the applicant that his application has been disapproved and that no permit and license will be issued.

C. If as a result of such investigation, the character and business responsibility of the applicant is found to be satisfactory, the Millard County Sheriff shall endorse such upon the application and return it to the City Recorder who shall upon payment of the prescribed license fee deliver to the applicant his permit and issue a license. Such license shall contain the signature of the issuing officer and shall show the name, address and photograph of the licensee and the kind of goods to be sold pursuant to the application together with an expiration date.

9-714. FEES.

A. The license fees which shall be charged by the City Recorder for any license issued pursuant to this part shall be set by resolution of the City Council.

9-715. LICENSES, BADGES, REVOCATION, EXPIRATION, APPEAL.

A. The City Recorder shall issue to each licensee at the time of delivery of his license a badge which shall contain the words "Licensed Solicitor," "Licensed Transient Merchant" or "Licensed Peddler" as the case may be, for which the application was made and the license issued, and the number of the license, in letters and figures easily discernable from a distance of five feet. Such badge shall, during the time peddlers or solicitors are engaged in the business for which they are licensed, be worn constantly by them on the front or their outer garment in such a way as to be conspicuous.

B. Any person licensed pursuant to this part shall exhibit their license at the request of any citizen of the City of Delta.

C. It shall be the duty of any police officer of the City of Delta to require any person seen soliciting, canvassing or peddling, and who is not known by such officers to be duly licensed, to produce his or her license and to enforce the provisions of this part.

D. Revocation of license.

1. Permits and licenses issued pursuant to this part may be revoked by the City Recorder, after notice and hearing, for any of the following causes:

a. Fraud, misrepresentation or a false statement contained in the application for the license.

b. Fraud, misrepresentation for false statement made in the course of carrying on his business as solicitor or canvasser.

c. Any violation of this part.

d. Conviction of any crime or misdemeanor involving moral turpitude.

e. Conducting the business of soliciting, or of canvassing in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

2. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address or at the address shown on his application. The hearing and notice shall in all other aspects substantially comply with Chapter 1-400.

E. Any person aggrieved by the action of the City Recorder in the denial of a permit or a license issued pursuant to this part, or by the action of the City Council can file an appeal. Such appeal shall be taken by filing with the City Council within 14 days after notice of the action complained of has been mailed to such person's last known address or address on the business application, a written statement setting forth fully the grounds for the appeal. The City Council shall set a time and place for the hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as above proved in Section D.

F. All licenses issued pursuant to this part shall expire on the date specified on the license.

9-716. ADDITIONAL REQUIREMENTS.

This part shall not be construed so as to waive the provisions and requirements of any other ordinance of the City of Delta.

9-717. EXCEPTIONS.

The provisions of this part shall not apply to any individual who is at the time he is engaged in any activity which would otherwise require licensing by this part, engaged in an activity which is authorized by any church or charity which has a permanent structure located within the State of Utah, provided such church or charity has had such permanent structure for at least six months prior to the date when the individuals engaged in the activity which would otherwise require licensing by this part.

9-718. NO OTHER CITY LICENSE OR APPROVAL REQUIRED.

A. Registered Solicitors and person exempt from Registration need not apply for, nor obtain, any other license, permit, or registration from the City to engage in Door-to-Door Solicitation.

B. Any Business licensed by the City under another City Ordinance that uses employees, independent contractors, or agents for Door-to-Door Solicitation in an effort to provide any tangible or intangible benefit to the Business, shall be required to have such Solicitors obtain a Certificate, unless otherwise exempt from Registration.

C. Those Responsible Persons or Entities associated with Registered Solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.

D. Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permit, or certificate that a Registered Solicitor is otherwise required to have or maintain.

9-719. DEFINITIONS.

For the purposes of this Chapter, the following definitions shall apply:

A. "Advocating" means speech or conduct intended to inform, promote, or support Religious Belief, Political Position, or Charitable Activities.

B. "Appeals Officer" means the City Council or designee of the City responsible for receiving the information from the City and Appellant regarding the denial or suspension of a Certificate and issuing a decision as required by this Chapter.

C. "Appellant" means the person or entity appealing the denial or suspension of a Certificate, either personally as an Applicant or Registered Solicitor, or on behalf of the Applicant or Registered Solicitor.

D. "Applicant" means an individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a Certificate permitting Door-to-door Solicitation.

E. "Application Form" means a standardized form provided by the City to an Applicant to be completed and submitted as part of Registration.

F. "B.C.I. background check" means an original or copy, dated no older than 180 days prior to the date of the Application, of both:

1. A Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the Applicant; and

2. If the Applicant is not domiciled in Utah, a verified criminal history report, or equivalent, personal to the Applicant from the Department of Public Safety Bureau of Criminal Identification, or equivalent agency, of the Applicant's state of domicile. The Applicant must establish their state of domicile to the satisfaction of the Licensing Officer by providing a valid state-issued driver's license, a valid state-issued identification card, or a utility bill dated within the past 90 days addressed to the Applicant at a physical address within the Applicant's state of domicile.

G. "Business" means a commercial enterprise licensed by the City as a person or Entity under this Title, having a fixed or temporary physical location within the City.

H. "Certificate" means a temporary, annual, or renewal Certificate permitting Door-to-door Solicitation in the City applied for or issued pursuant to the terms of this Chapter

I. "Charitable Activities" means Advocating by persons or Entities that either are, or support, a Charitable Organization.

J. "Charitable Organization" includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other Entity:

1. That is:

- a. a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;

- b. for the benefit of a public safety, law enforcement, or firefighter fraternal association; or

- c. established for any charitable purpose; and

2. That is tax exempt under applicable provisions of the Internal Revenue Code of 1986 as amended, and qualified to solicit and receive tax deductible contributions from the public for charitable purposes.

3. Charitable Organization includes a chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the state for a Charitable Organization that has its principal place of business outside the City or State of Utah.

K. "Competent Individual" means a person claiming or appearing to be at least eighteen (18) years or age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

L. "Completed Application" means a fully completed Application form, a B.C.I. completed application, two copies of the original identification relied on by the Applicant to establish Proof of Identity, two photographs of the Applicant that comply with U.S. Passport Photo requirements, and the tendering of Fees.

M. "Criminally Convicted" means the final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the Applicant or Registered Solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

N. "Disqualifying Status" means anything specifically defined in this Chapter as requiring the denial or suspension of a Certificate, and any of the following:

1. The Applicant or Registered Solicitor has been Criminally Convicted of:
 - a. felony homicide,
 - b. physically abusing, sexually abusing, or exploiting a minor
 - c. the sale or distribution of controlled substances, or
 - d. sexual assault of any kind.
2. Criminal charges currently pending against the Applicant or Registered Solicitor for:
 - a. felony homicide,
 - b. physically abusing, sexually abusing, or exploiting a minor,
 - c. the sale or distribution of controlled substances, or
 - d. sexual assault of any kind.
3. The Applicant or Registered Solicitor has been Criminally Convicted of a felony within the last ten (10) years.
4. The Applicant or Registered Solicitor has been incarcerated in a federal or state prison within the past five (5) years.
5. The Applicant or Registered Solicitor has been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of:

- a. moral turpitude, or
 - b. violent or aggravated conduct involving persons or property.
6. A Final Civil Judgment has been entered against the Applicant or Registered Solicitor within the last five (5) years indicating that:
- a. the Applicant or Registered Solicitor had either engaged in fraud, or intentional misrepresentation, or
 - b. that a debt of the Applicant or Registered Solicitor was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a) (2), (a) (4), (a) (6), or (a) (19).
7. The Applicant or Registered Solicitor is currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device.
8. The Applicant or Registered Solicitor has an outstanding arrest warrant from any jurisdiction; or
9. The Applicant or Registered Solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.
- O. "Door-to-Door Solicitation" means the practice of engaging in or attempting to engage in conversation with any person at a Residence, whether or not that person is a Competent Individual, while making or seeking to make or facilitate a Home Solicitation Sale, or attempting to further the sale of Goods and/or Services.
- P. "Entity" includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.
- Q. "Fees" means the cost charged to the Applicant or Registered Solicitor for the issuance of a Certificate and/or Identification Badge, which shall not exceed the reasonable costs of processing the application and issuing the Certificate and/or Identification Badge.
- R. "Final Civil Judgment" means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.
- S. "Goods" means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.
- T. "Home Solicitation Sale" means to make or attempt to make a Sale of Goods or Services by a Solicitor at a Residence by means of Door-to-door Solicitation, regardless of:
- 1. The means of payment or consideration used for the purchase;

2. The time of delivery of the Goods or Services; or
 3. The previous or present classification of the Solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.
- U. "Licensing Officer" means the City employee(s) or agent(s) responsible for receiving from an Applicant or Registered Solicitor the Completed Application and either granting, suspending, or denying the Applicant's Certificate
- V. "No Solicitation Sign" means a reasonably visible and legible sign that states "No Soliciting," "No Solicitors," "No Salespersons," "No Trespassing," or words of similar import.
- W. "Political Position" means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.
- X. "Registered Solicitor" means any person who has been issued a current Certificate by the City.
- Y. "Registration" means the process used by the City Licensing Officer to accept a Completed Application and determine whether or not a Certificate will be denied, granted, or suspended.
- Z. "Religious Belief" means any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.
- AA. "Residence" means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the City, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street or public rights of way.
- BB. "Responsible Person or Entity" means that person or Entity responsible to provide the following to an Applicant, Registered Solicitor, and the Competent Individual in a Residence to whom a Sale of Goods or Services is made or attempted to be made by means of a Home Solicitation Sale:
1. Maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any Sale of Goods or Services, paying the sales taxes, and filing any required returns or reports.
 2. Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and
 3. Refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights of law.

CC. "Sale of Goods or Services" means the conduct and agreement of a Solicitor and the Competent Individual in a Residence regarding a particular Good(s) or Service(s) that entitles the consumer to rescind the same within three (3) days under any applicable federal, state, or local law.

DD. "Soliciting" or "Solicit" or "Solicitation" means any of the following activities:

1. Seeking to obtain Sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought.
2. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
3. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or Entity.
4. Seeking to obtain orders or prospective customers for Goods or Services.
5. Seeking to engage an individual in conversation at a Residence for the purpose of promoting or facilitating the receipt of information regarding Religious Belief, Political Position, Charitable conduct, or a Home Solicitation Sale.
6. Other activities falling within the commonly accepted definition of "Soliciting," such as hawking or peddling.

EE. "Solicitor" or "Solicitors" means a person(s) engaged in Door-to-Door Solicitation.

FF. "Submitted in Writing" means the information for an appeal of a denial or suspension of a Certificate, submitted in any typed or written statement to the City offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

GG. "Substantiated Report" means an oral, written, or electronic report:

1. That is submitted to an documented by the City:
2. By any of the following:
 - a. A competent Individual who is willing to provide law enforcement or other City employees with publicly available identification of their name, address, and any other reliable means of contact.
 - b. City law enforcement or Licensing Officer; or
 - c. any other regularly established law enforcement agency at any level of government.
3. That provides any of the following information regarding a Registered Solicitor:

- a. documented verification of a previously undisclosed Disqualifying Status of a Registered Solicitor;
- b. probable cause that the Registered Solicitor has committed a Disqualifying Status which has not yet been determined to be a Disqualifying Status;
- c. documented, eye-witness accounts that the Registered Solicitor has engaged in repeated patterns of behavior that demonstrates failure by the Registered Solicitor to adhere to the requirements of this chapter; or
- d. probable cause that continued licensing of the Registered Solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City.

HH. "Waiver" means the written form provided to Applicant by the City wherein Applicant agrees that the City may obtain a name/date of birth B.C.I. background check on the Applicant for licensing purposes under this Chapter, and which contains Applicant's notarized signature.

9-720. EXEMPTIONS FROM CHAPTER.

The following are exempt from Registration under this Chapter:

- A. Persons specifically invited to a Residence by a Competent Individual prior to the time of the person's arrival at the Residence;
- B. Persons whose license, permit, certificate or registration with the State of Utah permits them to engage in Door-to-Door Solicitation to offer Goods or Services to an occupant of the Residence;
- C. Persons delivering Goods to a Residence pursuant to a previously made order, or persons providing Services at a Residence pursuant to a previously made request by a Competent individual;
- D. Persons advocating or disseminating information for, against, or in conjunction with, any Religious Belief, or Political Position regardless of whether Goods, Services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase; and
- E. Persons representing a Charitable Organization. The charitable exemption shall apply to students Soliciting contributions to finance extracurricular social, athletic, scientific or cultural programs, provided that the Solicitation has been approved in writing by the school administration, and that such student Solicitations carry current picture student identification from the educational institution for which they are Soliciting. Those persons exempt from Registration are not exempt from the duties and prohibitions outlined in Sections 9-726, 9-727 and 9-728 while Advocating or Soliciting.

9-721. SOLICITATION PROHIBITED.

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this Chapter, the practice of being in and upon a private Residence within the City by Solicitors, for the purpose of Home Solicitation Sales or to provide Goods or Services, is prohibited and is punishable as set forth in this Chapter.

9-722. REGISTRATION OF SOLICITORS.

Unless otherwise exempt under this Chapter, all persons desiring to engage in Door-to-Door Solicitation within the City, prior to doing so, shall submit a Completed Application to the Licensing Officer and obtain a Certificate.

9-723. APPLICATION FORM.

The Licensing Officer shall provide a standard Application Form for use for the Registration of Solicitors. Upon request to the Licensing Officer, or as otherwise provided, any person or Entity may obtain in person, by mail, or facsimile, a copy of this Application Form. Each Application Form shall require disclosure and reporting by the Applicant of the following information, documentation, and fee:

A. Review of Written Disclosure. An affirmation that the Applicant has received and reviewed the disclosure information required by this Chapter.

B. Contact Information.

1. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years.

2. Applicant's telephone number, home address and mailing address, if different;

3. If different from the Applicant, the name, address, and telephone number of the Responsible Person or Entity; and

4. The address by which all notices to the Applicant required under this Chapter are to be sent.

C. Proof of Identity.

An in-person verification by the Licensing Officer of the Applicant's true identity by use of any of the following which bear a photograph of said Applicant.

1. A valid driver's license issued by any state;

2. A valid passport issued by the United States;

3. A valid identification card issued by any state;

4. A valid identification issued by a branch of the United States military.

Upon verification of identity, the original identification submitted to establish Proof of Identity shall be returned to the Applicant.

D. Proof of Registration with Department of Commerce. The Applicant shall provide proof that either the Applicant, or the Responsible Person or Entity, has registered with the Utah State Department of Commerce.

E. Special Events Sales Tax Number. The applicant shall provide a special events sales tax number for either the Applicant, or for the Responsible Person or Entity for which the Applicant will be soliciting.

F. Marketing Information.

1. The Goods or Services offered by the Applicant, including any commonly known, registered or trademarked names;

2. Whether the Applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered Goods or Services.

G. B.C.I. Background Check.

The Applicant shall provide:

1. An original or a copy of a B.C.I. background check as defined in Section 9-719.F.; and

2. A signed copy of a Waiver whereby Applicant agrees to allow the City to obtain a name/date of birth B.C.I. background check on Applicant for purposes of enforcement of this Chapter.

H. Responses to Questions Regarding "Disqualifying Status." The Applicant shall be required to affirm or deny each of the following statements on the Application Form:

1. Has the Applicant been Criminally Convicted of:

- a. felony homicide,
- b. physically abusing, sexually abusing, or exploiting a minor,
- c. the sale or distribution of controlled substances, or
- d. sexual assault of any kind;

2. Are any criminal charges currently pending against the Applicant for:

- a. felony homicide,
- b. physically abusing, sexually abusing, or exploiting a minor,

- c. the sale or distribution of controlled substances, or
 - d. sexual assault of any kind;
3. Has the Applicant been Criminally Convicted of a felony within the last ten (10) years;
4. Has the Applicant been incarcerated in a federal or state prison within the past five (5) years;
5. Has the Applicant been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of:
- a. moral turpitude, or
 - b. violent or aggravated conduct involving persons or property.
6. Has a Final Civil Judgment been entered against the Applicant within the last five (5) years indicating that:
- a. the Applicant had either engaged in fraud, or intentional misrepresentations, or
 - b. that a debt of the Applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523 (a) (2), (a) (4), (a) (6), or (a) (19);
7. Is the Applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device.
8. Does the Applicant have an outstanding arrest warrant from any jurisdiction; and
9. Is the Applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

I. Fee.

The Applicant shall pay such fees as the City sets by resolution, which fees shall not exceed the reasonable cost of processing the Application and issuing the Certificate and/or Identification Badge.

J. Execution of Application.

The Applicant shall execute the Application Form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the Applicant, the information provided is complete, truthful and accurate.

K. Photographs.

The Applicant shall submit two photographs of the Applicant that comply with U.S. Passport Photo requirements for the City's use in preparing and issuing the Identification Badge.

9-7241 WRITTEN DISCLOSURES.

The Application Form shall be accompanied by written disclosures notifying the Applicant of the following:

A. The Applicant's submission of the Application authorizes the City to verify information submitted with the Completed Application including:

1. The Applicant's address;
2. The Applicant's and/or Responsible Person or Entity's state tax identification and special use tax numbers, if any;
3. The validity of the Applicant's Proof of Identity.

B. The City may consult any publicly available sources for information on the Applicant, including but not limited to, databases for any outstanding warrants, protective orders, or civil judgments.

C. Establishing Proof of Identity is required before Registration is allowed.

D. Identification of the fee amount that must be submitted by Applicant with a Completed Application.

E. The Applicant must submit a B.C.I. background check with a Completed Application.

F. To the extent permitted by state and/or federal law, the Applicant's B.C.I. background check shall remain a confidential, protected, private record not available for public inspection.

G. The City will maintain copies of the Applicant's Application Form, Proof of Identity, and Identification Badge. These copies will become public records available for inspection on demand at the City offices whether or not a Certificate is denied, granted, or renewed.

H. The criteria for Disqualifying Status, denial, or suspension of a certificate under the provisions of this Chapter.

I. That a request for a temporary Certificate will be granted or denied the same business day that a Completed Application is submitted.

9-725. WHEN REGISTRATION BEGINS.

The Licensing Officer shall not begin the Registration process unless the Applicant has submitted a Completed Application. The original identification submitted to establish Proof of Identity shall be returned after the Licensing Officer verifies the Applicant's identity. A copy of the identification may be retained by the Licensing Officer. If an original B.C.I. background check is submitted by the Applicant, the Licensing Officer shall make a copy of the B.C.I. and return the original to the Applicant.

9-726. ISSUANCE OF CERTIFICATES.

The Licensing Officer shall review the Completed Application submitted by the Applicant and issue a Certificate in accordance with the following:

A. Temporary Certificate.

1. A temporary Certificate shall issue allowing the Applicant to immediately begin Door-to-Door Solicitation upon the following conditions:

- a. Applicant's submission of a Completed Application;
- b. Applicant's submission of the required fee;
- c. Applicant establishes Proof of Identity;
- d. Applicant's representations on the Application Form do not affirmatively show a Disqualifying Status.
- e. The B.C.I. does not affirmatively show a Disqualifying Status; and
- f. Applicant has not previously been denied a Certificate by the City, or had a Certificate revoked for grounds that still constitute a Disqualifying Status under this Chapter.

2. A temporary Certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual Certificate, whichever period is shorter.

B. Annual Certificate. Within twenty-five (25) calendar days of the issuance of a temporary Certificate the City shall:

1. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the Applicant, including, but not limited to those disclosed with the Application Form.
2. Issue written notice to the Applicant and the Responsible Person or Entity, if any, that the Applicant either:
 - a. will be issued an annual Certificate, eligible for renewal one year from the date of issuance of the temporary Certificate; or
 - b. will not be issued an annual Certificate for reasons cited in Section 9-723 of this Chapter.
- C. **Renewal Certificate.** An annual Certificate shall be valid for one year from the date of issuance of the temporary Certificate and shall expire at midnight on the anniversary date of issuance. Any annual Certificate that is not suspended, revoked, or expired may be renewed upon the request of the Registered Solicitor and the submission of a new Completed Application and payment of the Fee, unless any of the conditions for the denial, suspension or revocation of a Certificate are present as set forth in Section 9-723, or a Disqualifying Status is present.

9-727. FORM OF CERTIFICATE AND IDENTIFICATION BADGE.

A. Certificate Form.

Should the Licensing Officer determine that the Applicant is entitled to a Certificate, the Licensing Officer shall issue a Certificate to the Applicant. The Certificate shall list the name of the Registered Solicitor and the Responsible Person or Entity, if any, and the date on which the Certificate expires. The Certificate shall be and signed by the Licensing Officer. The Certificate shall be carried by the Registered Solicitor at all times while Soliciting in the City.

B. Identification Badge.

With both the temporary and annual Certificates, the City shall issue each Registered Solicitor an Identification Badge that shall be worn prominently on his or her person while Soliciting in the City. The Identification Badge shall bear the name of the city and shall contain:

1. The name of the Registered Solicitor;
2. Address and phone number of the Registered Solicitor, or the name, address and phone number of the Responsible Person or Entity;
3. A recent photograph of the Registered Solicitor; and
4. The date on which the Certificate expires.9-728.

MAINTENANCE OF REGISTRY. The Licensing Officer shall maintain and make available for public inspection a copy or record of every Completed Application received and the Certificate or written denial issued by the City. The Applicant's B.C.I. background check shall remain a confidential, protected, private record not available for public inspection. The Licensing Officer may furnish to the head of the City's law enforcement agency a listing of all Applicant's, those denied, and those issued a Certificate.

9-729. NON-TRANSFERABILITY OF CERTIFICATES.

Certificates shall be issued only in the name of the Applicant and shall list the Responsible Party or Entity, if any. The Certificate shall be non-transferable. A Registered Solicitor desiring to facilitate or attempt to facilitate Home Solicitation Sales with different (a) Goods or Services; or (b) Responsible Person or Entity, from those designated in the originally submitted Completed Application, shall submit a written change request to the Licensing Officer. A new Certificate based on the amended information shall issue for the balance of time remaining on the Solicitor's previous Certificate before the amendment was filed. Before the new Certificate is given to the Registered Solicitor, the Registered Solicitor shall obtain a revised Identification Badge from the City, after payment of the Fee for the Identification Badge.

9-730. DENIAL, SUSPENSION OR REVOCATION OF A CERTIFICATE OR REGISTRATION.

A. Denial. Upon review, the Licensing Officer shall refuse to issue a Certificate to an Applicant for any of the following reasons.

1. Denial of Temporary Certificate.

a. The Application Form is not complete;

b. The Applicant fails to:

(1) establish Proof of Identity,

(2) provide a B.C.I. or

(3) pay the Fees;

c. The Completed Application or B.C.I. indicates that the Applicant has a Disqualifying Status; or

d. The Applicant has previously been denied a Certificate by the City, or has had a Certificate revoked for grounds that still constitute a Disqualifying Status under this Chapter.

2. Denial of Annual Certificate.

- a. The information submitted by the Applicant at the time of the granting of the temporary Certificate is found to be incomplete or incorrect;
 - b. Since the submission of the Completed Application, the Applicant is subject to a previously undisclosed or unknown Disqualifying Status;
 - c. Failure to complete payment of the Fees;
 - d. Since the submission of the Application, the City has received a Substantiated Report regarding the past or present conduct of the Applicant;
 - e. Since the submission of the Application, the City or other governmental entity has either Criminally Convicted or obtained a civil injunction against the Applicant for violating this chapter or similar federal, state or municipal laws in a manner rising to the level of a Disqualifying Status; or
 - f. Since the submission of the Application, a Final Civil Judgment has been entered against the Applicant indicating that:
 - (1) the Applicant had either engaged in fraud, or intentional misrepresentation, or
 - (2) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523 (a) (2), (a) (4), (a) (6), or (a) (19).
3. Denial of Annual Certificate Renewal.
- a. The information submitted by the Applicant when seeking renewal of a Certificate is found to be incomplete or incorrect;
 - b. Since the submission of the renewal Application, the Applicant is subject to a previously undisclosed or unknown Disqualifying Status;
 - c. Failure to complete payment of the Fees;
 - d. Since the submission of the Application or granting of a Certificate, the City has received a Substantiated Report regarding the past or present conduct of the Applicant;
 - e. The City or other governmental entity has either Criminally Convicted or obtained a civil injunction against the Applicant for violating this Chapter or similar federal, state or municipal laws in a manner rising to the level of a Disqualifying Status; or
 - f. Since the submission of the Application, a Final Civil Judgment has been entered against the Applicant indicating that:
 - (1) the Applicant had either engaged in fraud, or intentional misrepresentation, or

(2) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523 (a) (2), (a) (4), (a) (6), or (a) (19).

B. Suspension or Revocation. The City shall either suspend or revoke a Certificate when any of the reasons warranting the denial of a Certificate occurs.

C. Notice of Denial or Suspension. Upon determination of the Licensing Officer to deny an Applicant's Completed Application or to suspend a Registered Solicitor's Certificate, the City shall cause written notice to be sent to the Applicant or Registered Solicitor by the method indicated in the Completed Application. The Notice shall specify the grounds for the denial or suspension, the documentation or information the City relies on to make the decision, the availability of the documentation for review by Applicant upon one (1) business day notice to the City, and the date upon which the denial or suspension of the Certificate shall take effect. It shall further state that the Applicant or Registered Solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the Certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in Section 9-712.GG.3.a. in which case the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a Certificate automatically results in its revocation.

9-731. APPEAL.

An Applicant or Registered Solicitor whose Certificate has been denied or suspended shall have the right to appeal to the City Council or its designee. An appeal must be submitted by either the Applicant, the Responsible Person or Entity, or legal counsel for either who: (a) documents the relationship with the Applicant or Responsible Person or Entity; or (b) is licensed or authorized by the State of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply.

A. Any appeal must be Submitted in Writing to the City Recorder with a copy to the License Officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

B. Upon request of the Applicant or Registered Solicitor, within one (1) business day, the City will make available any information upon which it relied in making the determination to either deny or suspend the Certificate.

C. The Appeals Officer shall review, de novo, all written information submitted by the Applicant or Registered Solicitor to the Licensing Officer, any additional information relied upon by the Licensing Officer as the basis for denial, suspension or revocation, and

any additional information supplied by the City, Applicant or Registered Solicitor. Any additional information submitted by any party to the appeal to the Appeals Officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the Appeals Officer regarding the additional information submitted by the opposing party.

D. The Appeals Officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in Section 9-724.C., the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal

1. The denial or suspension of the Certificate shall be reversed by the Appeals Officer if upon review of the written appeal and information submitted, the Appeals Officer finds that the Licensing Officer made a material mistake of law or fact in denying or suspending the Applicant or Registered Solicitor's Certificate.

2. If the written appeal and information submitted indicates that the Licensing Officer properly denied or suspended the Certificate of the Applicant or Registered Solicitor, the denial or suspension of the Certificate shall be affirmed and constitute a determination that the suspended Certificate is revoked.

3. The decision of the Appeals Officer shall be delivered to the Applicant or Registered Solicitor by the means designated in the completed Application, or as otherwise agreed upon when the Appeal was filed.

E. After the ruling of the Appeals Officer, the Applicant or Solicitor is deemed to have exhausted all administrative remedies with the City.

F. Nothing herein shall impede or interfere with the Applicant's, Solicitor's, or City's right to seek relief in a court of competent jurisdiction.

9-732. DECEPTIVE SOLICITING PRACTICES PROHIBITED.

A. No Solicitor shall intentionally make any materially false or fraudulent statement in the course of Soliciting.

B. A Solicitor shall immediately disclose to the consumer during face-to-face Solicitation:

1. The name and address of the entity with whom the Solicitor is associated; and
2. The purpose of the Solicitor's contact with the person and/or Competent Individual. This requirement may be satisfied through the use of the Badge and an informational flyer.

C. No Solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.

D. No Solicitor shall represent directly or by implication that the granting of a Certificate of Registration implies any endorsement by the City of the Solicitor's Goods or Services or of the individual Solicitor.

9-733. "NO SOLICITATION" NOTICE.

A. Any occupant of a Residence may give notice of a desire to refuse Solicitors by displaying a "No Solicitation" sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the Residence.

B. The display of such sign or placard shall be deemed to constitute notice to any Solicitor that the inhabitant of the Residence does not desire to receive and/or does not invite Solicitors.

C. It shall be the responsibility of the Solicitor to check each Residence for the presence of any such Notice.

D. The provisions of this section shall apply also to Solicitors who are exempt from Registration pursuant to the provisions of this Chapter.

9-734. DUTIES OF SOLICITORS.

A. Every person Soliciting or Advocating shall check each Residence for any "No Soliciting" sign or placard or any other notice or sign notifying a Solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. If such sign or placard is posted, such Solicitor shall desist from any efforts to solicit at the Residence or dwelling and shall immediately depart from such property. Possession of a Certificate of Registration does not in any way relieve and Solicitor of this duty.

B. It is a violation of this Chapter for any person Soliciting or Advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a Residence that bears a "No Solicitation" sign or similar sign or placard for the purpose of engaging in or attempting to engage in Advocating, a Home Solicitation Sale, Door-to-Door Soliciting, or Soliciting.

C. It is a violation of this Chapter for any Solicitor through ruse, deception, or fraudulent concealment of a purpose to Solicit, to take action calculated to secure an audience with an occupant at a Residence.

D. Any Solicitor who is at any time asked by an occupant of a Residence or dwelling to leave shall immediately and peacefully depart.

E. The Solicitor shall not intentionally or recklessly make any physical contact with or touch another person without the person's consent.

F. The Solicitor shall not follow a person into a Residence without their explicit consent.

G. The Solicitor shall not continue repeated Soliciting after a person and/or Competent Individual has communicated clearly and unequivocally their lack of interest in the subject, Goods or Services of the Solicitor.

H. The Solicitor shall not use obscene language or gestures.

9-735. TIME OF DAY RESTRICTIONS.

It shall be unlawful for any person, whether licensed or not, to Solicit at a Residence before 9:00 a.m. or after 9:00 p.m. Mountain Time, unless the Solicitor has express prior permission from the resident to do so.

9-736. BUYER'S RIGHT TO CANCEL.

In any Home Solicitation Sale, unless the buyer requests the Solicitor to provide Goods or Services without delay in an emergency, the seller or Solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "Buyer's right to cancel" shall be in the form required by § 70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any state or federal law modifying or amending such provision.

9-737. PENALTIES.

Any person who violates any term or provision of this Chapter shall be guilty of a class "B" misdemeanor.

9-738. AMENDING SECTIONS 9-711 THROUGH 9-717 OF THE REVISED ORDINANCES OF DELTA CITY.

Sections 9-711 through 9-717 of the Revised Ordinances of Delta City shall not pertain to door-to-door solicitation. Such ordinances shall pertain to all other canvassers, peddlers and merchants and shall remain in full force and effect until amended hereafter. Sections 9-718 through 9-737 shall control and supersede any contrary requirements and procedures for door-to-door solicitors contained in Section 9-733 through 9-717, and such Sections 9-711 through 9-717 are hereby amended to conform with the provisions of this ordinance as they pertain only to door-to-door solicitation.